

Under 28 U.S.C. § 1746, I, Jordan Susman, declare that the following information is true:

- $\{00103478;1\}$

5. Attached hereto as Exhibit 2 is a true and correct copy of the Subpoena served upon Vision Financial Markets, LLC (“Vision”), along with the proof of service of same.

6. Attached hereto as Exhibit 3 is a true and correct copy of a letter I received from Clifford Histed, counsel for Vision, on June 27, 2019.

7. After Christopher Frankel filed a motion to quash the subpoena served on Vision, counsel for Defendant and counsel for Plaintiffs met and conferred and agreed to limit the scope of the Subpoena to the following: “All Documents and Communications between You and Christopher Frankel since August 1, 2018 to the extent such documents and/or communications referred to, used, incorporated or attached any information of or related to the Hurry Family Revocable Trust, Scottsdale Capital Advisors Corporation, or Alpine Securities Corporation.”

8. Attached hereto as Exhibit 4 is a true and correct copy of an email I sent to Mr. Histed on July 29, 2019.

9. On July 30, 2019, I spoke to Mr. Histed, who stated that he would be going out of town, but that Vision would comply with the narrowed Subpoena.

10. Attached hereto as Exhibit 5 is a true and correct copy of an email I received from Mr. Histed on August 8, 2019.

11. Attached hereto as Exhibit 6 are true and correct copies of emails I sent to Mr. Histed on August 20 and 22, 2019.

12. Attached hereto as Exhibit 7 is a true and correct copy of an email I received from Mr. Histed on August 8, 2019.

13. Attached hereto as Exhibit 8 is a true and correct copy of email correspondence between me and Mr. Histed on August 27, 2019. I was shocked by Mr. Histed’s renegeing on what he had previously agreed to and confirmed.

14. Pursuant to Fed.R.Civ.P. 37(a)(1), I certify that I attempted to confer with counsel for Vision in a good faith effort to resolve this dispute without court action. Counsel for Vision refused to discuss the matter. Attached hereto as Exhibit 9 is a true and correct copy of email correspondence between me and Mr. Histed on September 16 and 17, 2019.

15. To date, Vision has failed to comply with the Subpoena.

I declare under penalty of perjury that the foregoing statements are true and correct.

Executed on October 28, 2019.



Exhibit 1

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
CASE NO. 8:18-cv-02869-VMC-CPT

THE HURRY FAMILY REVOCABLE TRUST;
SCOTTSDALE CAPITAL ADVISORS CORPORATION;
and ALPINE SECURITIES CORPORATION,

Plaintiffs,

-vs-

CHRISTOPHER FRANKEL,

Defendant.

CHRISTOPHER FRANKEL,

Counter-claimant,

-vs-

CAYMAN SECURITIES CLEARING
AND TRADING LTD; THE HURRY
FAMILY REVOCABLE TRUST;
SCOTTSDALE CAPITAL ADVISORS
CORPORATION; and ALPINE SECURITIES
CORPORATION,

Counter-defendants.

VIDEOTAPED

DEPOSITION OF:

CHRISTOPHER FRANKEL

DATE TAKEN:

Wednesday, August 7, 2019

TIME:

2:45 p.m. to 6:26 p.m.

PLACE:

Bush Ross, P.A.
1801 North Highland Avenue
Tampa, Florida

REPORTED BY:

Niki Noojin, RPR, FPR
Notary Public
State of Florida at Large

APPEARANCES :

JORDAN SUSMAN, ESQUIRE

Harder LLP

132 South Rodeo Drive

Suite 301

Beverly Hills, California 90212-2406

424.203.1600

jsusman@harderllp.com

Appearing on behalf of the Plaintiffs

DAVID C. BANKER, ESQUIRE

HAROLD D. HOLDER, ESQUIRE

Buss Ross, P.A.

1801 North Highland Street

Tampa, Florida 33602

813.224.9255

dbanker@bushross.com

hholder@bushross.com

Appearing on behalf of the Defendants

ALSO PRESENT:

Michael Peterman, videographer

1 **THE VIDEOGRAPHER:** Good afternoon. We are
2 going on the record at 2:45 p.m. on August 7th,
3 2019. This is Media Unit 1 of the videotaped
4 deposition of Christopher Frankel in the matter of
5 The Hurry Family Revocable Trust, et al. versus
6 Christopher Frankel being taken at 1801 North
7 Highland Avenue, Tampa, Florida 33602.

8 My name is Michael Peterman. I'm the
9 videographer. The court reporter is Niki Noojin.

10 Will counsel please introduce themselves.

11 **MR. SUSMAN:** Jordan Susman, S-U-S-M-A-N of
12 Harder LLP for plaintiffs.

13 **MR. BANKER:** David Banker and Harold Holder
14 for Mr. Frankel.

15 **THE VIDEOGRAPHER:** Will the court reporter
16 please swear in the witness.

17 **THE REPORTER:** Would you raise your right
18 hand, please, sir.

19 Do you solemnly swear the testimony you are
20 about to give will be the truth, the whole truth,
21 and nothing but the truth?

22 **THE WITNESS:** I do.

23 CHRISTOPHER FRANKEL,
24 having been first duly sworn, was examined and testified
25 upon his oath as follows:

1 A Yes.

2 Q Okay. And what happened with those
3 conversations?

4 A What do you mean what happened with the
5 conversation?

6 Q Well, you reached out to him. You -- you
7 wanted him to bring his business to a competing
8 business, whatever happened?

9 MR. BANKER: Object to form.

10 BY MR. SUSMAN:

11 Q How did --

12 A Well, there was no business there. The firm
13 that I was trying to buy didn't materialize.

14 Q Is that Ziv?

15 A Yes.

16 Q Okay. Did you attempt to buy any other
17 broker-dealers?

18 A I mean, I guess, you know, I tried to put a
19 letter of intent out for one other firm.

20 Q What was that one?

21 A Quantex Clearing.

22 Q And what happened?

23 A They didn't respond.

24 Q And you're currently working at Vision?

25 A I am.

1 CERTIFICATE OF REPORTER

2
3 STATE OF FLORIDA4 COUNTY OF HILLSBOROUGH
5

6 I, NIKI MAURINE NOOJIN, certify that I was
7 authorized to and did stenographically report the
8 deposition of CHRISTOPHER FRANKEL; that a review of the
9 transcript was requested, and that the foregoing
10 transcript, Pages 1 through 177 is a true record of the
11 testimony given by the witness.

12
13 I further certify that I am not a relative,
14 employee, attorney, or counsel of any of the parties,
15 nor am I a relative or employee of any of the parties'
16 attorney or counsel connected with the action, nor am I
17 financially interested in the action.

18
19 Dated: 08/21/2019.

20
21 
22 NIKI MAURINE NOOJIN
23
24
25

CERTIFICATE OF OATH

STATE OF FLORIDA

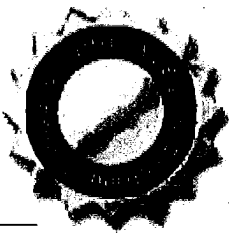
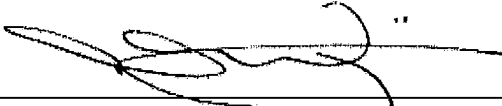
COUNTY OF HILLSBOROUGH

I, NIKI MAURINE NOOJIN, Notary Public, State
of Florida, certify that CHRISTOPHER FRANKEL personally
appeared before me on August 7, 2019, and was duly
sworn.

WITNESS my hand and official seal this date:
08/21/2019.

Identification:

CHRISTOPHER FRANKEL produced Florida Driver
License.



NIKI MAURINE NOOJIN
Notary Public
State of Florida
My Commission Expires 3/20/20
Commission No. FF 972564

Exhibit 2

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the
Middle District of Florida

THE HURRY FAMILY REVOCABLE TRUST, et al,

Plaintiff

v.

CHRISTOPHER FRANKEL

Defendant

Civil Action No. 8:18-cv-02869-VMC-CPT

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Vision Financial Markets, LLC, 120 Long Ridge Road 3 North, Stamford, CT 06902

(Name of person to whom this subpoena is directed)

☒ **Production: YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attachment A.

Place: Ace Attorney Service
278 W. 117 Street, Suite 1-B
New York, NY 10026

Date and Time:

06/28/2019 12:00 pm

☐ **Inspection of Premises: YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 06/05/2019

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*The name, address, e-mail address, and telephone number of the attorney representing *(name of party)*

Plaintiffs The Hurry Family Revocable Trust, et al., who issues or requests this subpoena, are:

Jordan Susman, esq., Harder LLP, 132 S. Rodeo Dr. 4th Flr, Beverly Hills, CA 90212, (424) 203.1600

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 8:18-cv-02869-VMC-CPT

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for (name of individual and title, if any) _____
 on (date) _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on (date) _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
 \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A

DEFINITIONS AND INSTRUCTIONS

The definitions below are submitted in conjunction with this Subpoena:

1. “You” or “your” means Vision Financial Markets, LLC, including, but not limited to, your agents, advisors, representatives, servants, and/or consultants.

2. “Document” or “documents” shall have the same definition as contemplated by Federal Rules of Civil Procedure 26 or 34, or Federal Rule of Evidence 1001, and includes, without limitation, electronic information in its native format and electronically stored information. The term “document” also means every copy of a document where such copy is not an identical duplicate of the original.

3. “Communication” or “communications” mean any contact, regardless of method between two or more persons, organizations, companies or other business entities, regardless of form, and shall include, without limitation, meetings, conferences, negotiations, telephone conversations, or any other form of verbal, written, or electronic exchange of information in the form of facts, ideas, inquiries, or otherwise.

4. This Subpoena shall be deemed to be continuing, and in the event that you become aware of additional documents responses to this Subpoena after the date of production specified herein, you are requested to produce such documents.

DOCUMENTS TO BE PRODUCED


1. All Documents and Communications between You and Christopher Frankel since June 1, 2015.

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 8:18-cv-02869-VMC-CPT

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*I received this subpoena for (name of individual and title, if any) Vision Financial Markets, LLCon (date) 06/06/2019☒ I served the subpoena by delivering a copy to the named person as follows: Keith Lurie, General Counsel,
authorized person to accept service of process, at 120 Long Ridge Road 3 North, Stamford, Connecticut06902 at 03:45 p.m. on (date) 06/07/2019 ; or☐ I returned the subpoena unexecuted because: _____Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of\$ 0.00My fees are \$ _____ for travel and \$ 0.00 for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: 06/07/2019

Server's signature

ERIC RUBIN, Not a registered California Process Server

Printed name and title

Ace Attorney Service, Inc.

P.O. Box 280866, East Hartford, Connecticut 06108

Phone No.: (860) 528-2920

Registration No.: N/A / County: N/A

Server's address

Additional information regarding attempted service, etc.:

Exhibit 3

K&L GATES

June 27, 2019

Clifford C Histed
clifford.histed@klgates.com

By E-mail Delivery (jsusman@harderllp.com)

T +1 312 807 4448
F +1 312 827 8000

Jordan Susman
Harder LLP
132 S. Rodeo Drive, Fourth Floor
Beverly Hills, CA 90212

**Re: *The Hurry Family Revocable Trust et al. v. Christopher Frankel*,
U.S. District Court for the Middle District of Florida, Case No. 8:18-cv-02868**

Dear Mr. Susman:

I write this letter to object to the third-party subpoena served on Vision Financial Markets, LLC (Vision) for the reasons listed below.

1. The subpoena imposes an undue burden on Vision, which is not a party to this action. To the extent that the subpoena seeks communications between Vision and any named party in this proceeding, such communications can (if appropriate) be obtained directly from that party through the discovery process, and not from a non-party. Also, to the extent that the subpoena calls for production of personal and confidential information, Vision would have to review and redact such information prior to production. This is a burden that a non-party should not have to bear.

2. The subpoena is overly broad because it seeks information that is not limited by subject matter and that covers a period of time exceeding four years.

3. The subpoena does not provide sufficient time for compliance.

Vision makes the objections listed above based only on the information and knowledge of the facts currently available to it. Vision reserves the right at any time to supplement, revise, or clarify its responses and objections.

Sincerely,



Clifford C. Histed

cc: Harold D. Holder, Esq.

Exhibit 4

From: Jordan Susman
Sent: Monday, July 29, 2019 3:15 PM
To: Histed, Clifford
Subject: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC
Attachments: Subpoena to Vision Financial Markets, LLC.pdf

Mr. Histed,

The parties have reached an agreement on Defendant's Motion to Quash the subpoena served upon Vision Financial Markets, and the Motion was denied as moot. Accordingly, the document request in the subpoena has been amended as follows: "All Documents and Communications between You and Christopher Frankel since August 1, 2018 to the extent such documents and/or communications referred to, used, incorporated or attached any information of or related to the Hurry Family Revocable Trust, Scottsdale Capital Advisors Corporation, or Alpine Securities Corporation."

Thank you in advance for your compliance.



JORDAN SUSMAN

HARDER LLP
132 S. RODEO DRIVE, FOURTH FLOOR
BEVERLY HILLS CA 90212
TEL (424) 203-1600
JSUSMAN@HARDERLLP.COM
WWW.HARDERLLP.COM

Confidentiality Notice: The information contained in this email and any attachments to it is intended only for the use of the intended recipient and may be confidential and/or privileged. If any recipient of this communication is not the intended recipient, the unauthorized use, disclosure or copying of this email and any accompanying attachments or other information contained herein is strictly prohibited, and may be unlawful. If you have received this communication in error, please immediately notify the sender by return email, destroy this email and any and all copies thereof (including any attachments) without reading them or saving them in any manner. Thank you.

UNITED STATES DISTRICT COURT

for the
Middle District of Florida

THE HURRY FAMILY REVOCABLE TRUST, et al,

Plaintiff

v.

CHRISTOPHER FRANKEL

Defendant

Civil Action No. 8:18-cv-02869-VMC-CPT

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Vision Financial Markets, LLC, 120 Long Ridge Road 3 North, Stamford, CT 06902

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attachment A.

Place: Ace Attorney Service
278 W. 117 Street, Suite 1-B
New York, NY 10026

Date and Time:

07/23/19 12:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 07/23/19

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
Plaintiffs The Hurry Family Revocable Trust, et al. _____, who issues or requests this subpoena, are:
Jordan Susman, esq., Harder LLP, 132 S. Rodeo Dr. 4th Flr, Beverly Hills, CA 90212, (424) 203.1600

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 8:18-cv-02869-VMC-CPT

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* _____
 on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

 _____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
 _____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
 \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Print

Save As...

Add Attachment

Reset

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A
DEFINITIONS AND INSTRUCTIONS

The definitions below are submitted in conjunction with this Subpoena:

1. “You” or “your” means Vision Financial Markets, LLC, including, but not limited to, your agents, advisors, representatives, servants, and/or consultants.
2. “Document” or “documents” shall have the same definition as contemplated by Federal Rules of Civil Procedure 26 or 34, or Federal Rule of Evidence 1001, and includes, without limitation, electronic information in its native format and electronically stored information. The term “document” also means every copy of a document where such copy is not an identical duplicate of the original.
3. “Communication” or “communications” mean any contact, regardless of method between two or more persons, organizations, companies or other business entities, regardless of form, and shall include, without limitation, meetings, conferences, negotiations, telephone conversations, or any other form of verbal, written, or electronic exchange of information in the form of facts, ideas, inquiries, or otherwise.
4. This Subpoena shall be deemed to be continuing, and in the event that you become aware of additional documents responses to this Subpoena after the date of production specified herein, you are requested to produce such documents.

DOCUMENTS TO BE PRODUCED

1. All Documents and Communications between You and Christopher Frankel since June 1, 2015.

Exhibit 5

From: Histed, Clifford <Clifford.Histed@klgates.com>
Sent: Thursday, August 8, 2019 6:46 PM
To: Jordan Susman
Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

Jordan:

Upon receiving the modified request from you last week I asked the client to redo the search, which they did last week. Though I am on vacation now I have reviewed the results and am working with others to prepare the emails for production. This will occur next week.

Best,
Cliff

K&L GATES

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Partner
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Suite 3100
Chicago, IL 60602-4207
Phone: 312-807-4448
Fax: 312-827-8062
clifford.histed@klgates.com
www.klgates.com

From: Jordan Susman <jsusman@harderllp.com>
Sent: Thursday, August 8, 2019 4:47 PM
To: Histed, Clifford <Clifford.Histed@klgates.com>
Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

Cliff,
What is the status of producing documents?

From: Jordan Susman
Sent: Monday, July 29, 2019 3:15 PM
To: Histed, Clifford <Clifford.Histed@klgates.com>
Subject: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

Mr. Histed,

The parties have reached an agreement on Defendant's Motion to Quash the subpoena served upon Vision Financial Markets, and the Motion was denied as moot. Accordingly, the document request in

the subpoena has been amended as follows: "All Documents and Communications between You and Christopher Frankel since August 1, 2018 to the extent such documents and/or communications referred to, used, incorporated or attached any information of or related to the Hurry Family Revocable Trust, Scottsdale Capital Advisors Corporation, or Alpine Securities Corporation."

Thank you in advance for your compliance.



JORDAN SUSMAN

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Exhibit 6

From: Jordan Susman
Sent: Tuesday, August 20, 2019 10:30 AM
To: Histed, Clifford
Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

Cliff,
Where are the documents?

From: Histed, Clifford <Clifford.Histed@klgates.com>
Sent: Thursday, August 8, 2019 6:46 PM
To: Jordan Susman <jsusman@harderllp.com>
Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

Jordan:

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clifford.histed@klgates.com
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From: Jordan Susman <jsusman@harderllp.com>
Sent: Thursday, August 8, 2019 4:47 PM
To: Histed, Clifford <Clifford.Histed@klgates.com>
Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

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Mr. Histed,

The parties have reached an agreement on Defendant's Motion to Quash the subpoena served upon Vision Financial Markets, and the Motion was denied as moot. Accordingly, the document request in the subpoena has been amended as follows: "All Documents and Communications between You and Christopher Frankel since August 1, 2018 to the extent such documents and/or communications referred to, used, incorporated or attached any information of or related to the Hurry Family Revocable Trust, Scottsdale Capital Advisors Corporation, or Alpine Securities Corporation."

Thank you in advance for your compliance.



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From: Jordan Susman
Sent: Thursday, August 22, 2019 10:38 AM
To: Histed, Clifford
Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

Please respond.

From: Jordan Susman
Sent: Tuesday, August 20, 2019 10:30 AM
To: Histed, Clifford <Clifford.Histed@klgates.com>
Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

Cliff,
Where are the documents?

From: Histed, Clifford <Clifford.Histed@klgates.com>
Sent: Thursday, August 8, 2019 6:46 PM
To: Jordan Susman <jsusman@harderllp.com>
Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

Jordan:

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Best,
Cliff



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Thank you in advance for your compliance.



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Exhibit 7

From: Histed, Clifford <Clifford.Histed@klgates.com>
Sent: Thursday, August 22, 2019 12:04 PM
To: Jordan Susman
Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

I anticipate providing a response on Monday.

K&L GATES

Clifford C. Histed
Partner
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Exhibit 8

From: Histed, Clifford <Clifford.Histed@klgates.com>
Sent: Tuesday, August 27, 2019 2:22 PM
To: Jordan Susman
Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

Jordan, we do not plan on producing the documents.

Cliff

K&L GATES

Clifford C. Histed
Partner
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Chicago, IL 60602-4207
Phone: 312-807-4448
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clifford.histed@klgates.com
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From: Jordan Susman <jsusman@harderllp.com>
Sent: Tuesday, August 27, 2019 4:15 PM
To: Histed, Clifford <Clifford.Histed@klgates.com>
Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

???

From: Histed, Clifford <Clifford.Histed@klgates.com>
Sent: Thursday, August 22, 2019 12:04 PM
To: Jordan Susman <jsusman@harderllp.com>
Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

I anticipate providing a response on Monday.

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Sent: Thursday, August 22, 2019 12:38 PM
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Please respond.

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Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

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Where are the documents?

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Sent: Thursday, August 8, 2019 6:46 PM
To: Jordan Susman <jsusman@harderllp.com>
Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

Jordan:

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Best,
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From: Jordan Susman <jsusman@harderllp.com>
Sent: Thursday, August 8, 2019 4:47 PM

To: Histed, Clifford <Clifford.Histed@klgates.com>

Subject: RE: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

Cliff,
What is the status of producing documents?

From: Jordan Susman

Sent: Monday, July 29, 2019 3:15 PM

To: Histed, Clifford <Clifford.Histed@klgates.com>

Subject: Hurry / Frankel: Third-Party Subpoena Issued to Vision Financial Markets LLC

Mr. Histed,

The parties have reached an agreement on Defendant's Motion to Quash the subpoena served upon Vision Financial Markets, and the Motion was denied as moot. Accordingly, the document request in the subpoena has been amended as follows: "All Documents and Communications between You and Christopher Frankel since August 1, 2018 to the extent such documents and/or communications referred to, used, incorporated or attached any information of or related to the Hurry Family Revocable Trust, Scottsdale Capital Advisors Corporation, or Alpine Securities Corporation."

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Exhibit 9

From: Histed, Clifford <Clifford.Histed@klgates.com>
Sent: Tuesday, September 17, 2019 11:52 AM
To: Jordan Susman
Subject: RE: Subpoena served on Vision Financial

Jordan:

Given the tone of this email, the unprofessional email that preceded it (which, I note, you have not included in the chain below), and Mr. Hurry's recent lawsuit against Vision Financial Markets, Howard Rothman, and Randall Jones, I do not intend to discuss this matter with you. The fact is that you gave us only ten business days' notice of the new and narrowed subpoena scope, and we did our best to meet your discovery deadline, but were not able to do so.

Do what you think is right.

Cliff

K&L GATES

Clifford C. Histed

Partner
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Suite 3100
Chicago, IL 60602-4207
Phone: 312-807-4448
Fax: 312-827-8062
clifford.histed@klgates.com
www.klgates.com

From: Jordan Susman <jsusman@harderllp.com>
Sent: Monday, September 16, 2019 3:10 PM
To: Histed, Clifford <Clifford.Histed@klgates.com>
Subject: Subpoena served on Vision Financial

Cliff,

Please let me know when you are available today, tomorrow or Wednesday to discuss your client's failure and refusal to comply with the subpoena served upon it in Alpine v Frankel.

We intend to file a motion to compel compliance.

Thank you



JORDAN SUSMAN

HARDER LLP
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